

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ELLIOT ROMAN,

Plaintiff,

v.

PHILLIPS & COHEN ASSOCIATES, LTD.,

Defendant(s).

Civil Action No.:

NOTICE OF REMOVAL

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA:**

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant Phillips & Cohen Associates Ltd. (“PCA” or “Defendant”) hereby removes this action from the Chester County Court of Common Pleas, State of Pennsylvania, Case No. 2020-08334-MJ, to the United States District Court for the Eastern District of Pennsylvania. Removal is proper because this Court has subject matter jurisdiction over the action by way of federal question. *See* 28 U.S.C. § 1331. Accordingly, PCA removes this action to this Court, and, in support of its Notice of Removal, states the following:

I. BACKGROUND

1. On or about November 6, 2020, Plaintiff, Elliot Roman (“Plaintiff”), filed a complaint against PCA in the Chester County Court of Common Pleas, State of Pennsylvania, Case No. 2020-08334-MJ (the “State Court Action”). In accordance with 28 U.S.C. § 1446(a),

attached hereto as Exhibit A is a complete copy of all process, pleadings, and orders served upon PCA in such action.

2. Plaintiff served PCA with a copy of the Complaint, and PCA received the Complaint on November 14, 2020.

3. This Notice of Removal is being filed within thirty (30) days of PCA receiving the Complaint. Accordingly, the action is removable pursuant to 28 U.S.C. § 1446(b)(1).

4. The above-captioned action is a suit for alleged violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”).

II. REMOVAL BASED ON FEDERAL QUESTION JURISDICTION

5. This Court has original jurisdiction over Plaintiff’s FDCPA claim pursuant to 28 U.S.C. § 1331, which states that federal question jurisdiction is appropriately exercised over “all civil actions arising under the Constitution, laws, or treaties of the United States.”

6. Removal of this action is proper under 28 U.S.C. § 1441(a), which provides, in pertinent part, that “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”

7. Plaintiff’s Complaint alleges that PCA violated Section 1692c of the FDCPA by contacting Plaintiff at irregular times and places and hanging up before identifying itself only to call right back and Section 1692e by (1) including exorbitant fees and interest with the amount PCA was attempting to collect, (2) failing to inform Plaintiff of tax reporting or assessment consequences of paying the outstanding debt, and (3) failing to update credit reports after Plaintiff disputed the debt. *See* Complaint at ¶¶ 14, 16, 17, 18, 19.

8. PCA denies the allegations in the Complaint, denies that Plaintiff states a claim for which relief may be granted, and denies that Plaintiff has been damaged in any manner. Nevertheless, assuming for jurisdictional purposes only that Plaintiff's claims are valid, Plaintiff could have originally filed his Complaint in this Court because federal question jurisdiction exists over this action since the allegations asserted by Plaintiff in the Complaint involve questions that will require resolution of significant, disputed issues arising under federal law. Thus, this case qualifies for federal question jurisdiction and is removable because Plaintiff's Complaint alleges claims under, and requires a ruling on, the FDCPA.

9. Because there is federal question jurisdiction over the claims as discussed above, this Court also has supplemental jurisdiction over all state law claims listed in Count II because those claims stem from the same operative facts and are so related that they form part of the same case or controversy. *See* 28 U.S.C. § 1367. Accordingly, this case is removable.

III. VENUE

10. Venue is proper in this Court because this district encompasses the Chester County Court of Common Pleas, State of Pennsylvania, the forum from which the case has been removed. *See* 28 U.S.C. § 1441.

IV. NOTICE

11. Concurrent with the filing of this Notice, PCA will file a Notice of Removal with the Clerk of the Chester County Court of Common Pleas, State of Pennsylvania, a copy of which is attached hereto as Exhibit B.

12. Upon information and belief, the contents of Exhibit A and Exhibit B constitute the entire file of the action pending in the state court as required pursuant to 28 U.S.C. § 1446(a).

13. PCA reserves the right to amend this Notice of Removal.

14. If any questions arise as to the propriety of the removal of this action, PCA requests the opportunity to present a brief and argument in support of its position that this case is removable.

V. CONCLUSION

WHEREFORE, having met all the requirements for removal under 28 U.S.C. §§ 1441 and 1446, including all the jurisdictional requirements of 28 U.S.C. § 1331, Defendant Phillips & Cohen Associates, Ltd. hereby removes the above-captioned action from the Chester County Court of Common Pleas, State of Pennsylvania, and seeks whatever further relief this Court deems equitable and just.

Respectfully submitted:



Dated: December 14, 2020

By: _____
Brian H. Callaway (Bar No. 316034)
Victoria Summerfield (Bar No. 311540)
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Attorney for Phillips & Cohen Associates, Ltd.

CERTIFICATE OF SERVICE

I certify that on December 14, 2020, I filed the foregoing *Notice of Removal* with the Clerk of the Court, and sent notice, via first class mail, postage prepaid, to the following counsel of record:

Fred Davis, Esq.
Davis Consumer Law Firm
2300 Computer Rd., Suite G39
Willow Grove, Pennsylvania 19090
Attorney for Plaintiff

Dated: December 14, 2020

By: /s/ Brian H. Callaway
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